

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

VITO ANTONIO LAERA,  
 Plaintiff(s),

vs.

CAI JUN FANG,  
 Defendant(s).

Case No. 2:14-cv-00667-JAD-NJK

ORDER DENYING WITHOUT  
 PREJUDICE MOTION FOR ORDER  
 TO SHOW CAUSE

(Docket No. 11)

Plaintiff is proceeding in this action *pro se*. On May 1, 2014, Plaintiff filed a complaint asserting ten causes of action against Defendant. *See* Docket No. 1. Also on May 1, 2014, Plaintiff filed a proof of service showing personal service on Defendant. *See* Docket No. 4. On May 28, 2014, Plaintiff moved for entry of default and the Clerk thereupon entered default. *See* Docket Nos. 7, 8. On May 30, 2014, Plaintiff filed a motion for entry of default judgment. Docket No. 9.

Pending before the Court is Plaintiff's motion for an order to show cause, filed on June 11, 2014, which the Court construes as a motion to amend the Complaint to add four new causes of action. *See* Docket No. 11. As Defendant has not responded to the initial Complaint, however, leave from the Court to amend the pleadings is not required. *See* Fed. R. Civ. P. 15(a)(1)(B). Accordingly, to the extent Plaintiff wishes to add new claims in this case, he may do so by filing an Amended Complaint. If Plaintiff chooses to amend the Complaint, Plaintiff is informed that the Court cannot refer to a prior pleading (i.e., his original Complaint) in order to make the Amended Complaint complete. This is because, as a general rule, an Amended Complaint supersedes the original Complaint. *See Loux v. Rhay*,

1 375 F.2d 55, 57 (9th Cir. 1967). Local Rule 15-1 requires that an Amended Complaint be complete in  
2 itself without reference to any prior pleading. Once a plaintiff files an Amended Complaint, the original  
3 Complaint no longer serves any function in the case. Therefore, in an Amended Complaint, as in an  
4 original Complaint, each claim must be sufficiently alleged.

5 Plaintiff should be aware that any Amended Complaint must be properly served on the  
6 Defendant. *See* Fed. R. Civ. P. 5(a)(2) (“a pleading that asserts a new claim for relief against [a party  
7 in default] must be served on that party under Rule 4”).

8 Lastly, Plaintiff should also be aware that the filing of an Amended Complaint will moot the  
9 pending motion for default judgment, as well as the default already entered by the Clerk, given that an  
10 Amended Complaint would add new causes of action. *See Chilko v. Lorren*, 2008 WL 4468995, \*2  
11 (E.D. Cal. Sept. 30, 2008) (vacating default and deeming withdrawn motion for default judgment in light  
12 of amended complaint).

13 Accordingly the motion for an order to show cause is hereby **DENIED** without prejudice. To  
14 the extent Plaintiff wishes to amend his Complaint, he must do so in compliance with the above  
15 instructions. In particular, he must file a complete Amended Complaint, properly serve that Amended  
16 Complaint on Defendant, and begin anew the process of obtaining default judgment. Any Amended  
17 Complaint must be filed no later than August 8, 2014. In the event Plaintiff does not to file an Amended  
18 Complaint by August 8, 2014, the Court will proceed with the case based on his original Complaint.

19 IT IS SO ORDERED.

20 DATED: July 9, 2014

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23 NANCY J. KOPPE  
24 United States Magistrate Judge  
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